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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,337	07/01/2004	Joseph Araujo	CCT-P0001	4336

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DALINA LAW GROUP, P.C.
7910 IVANHOE AVE. #325
LA JOLLA, CA 92037

EXAMINER	
PERREIRA, MELISSA JEAN	
ART UNIT	PAPER NUMBER
1618	
MAIL DATE	DELIVERY MODE
07/15/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/710,337	ARAUJO ET AL.	
	Examiner	Art Unit	
	MELISSA PERREIRA	1618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 February 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12 and 27-36* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12 and 27-36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *2/25/08, 2/25/08*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/25/08 has been entered.

Specification

2. The amendment to the specification is acknowledged and accepted.

Previous Claims and Rejection/Objection Status

3. Claims 1-12 and 27-36 are pending in the application.

4. The rejection of claims 1 and 2 under 35 U.S.C. 102(b) as being anticipated by Rashotte et al. (Neuroscience & Biobehavioral Reviews **1984**, *8*, 231-237) is maintained.

5. The rejection of claims 1 and 2 under 35 U.S.C. 102(b) as being anticipated by Laska et al. (*Learn Mem.* **1998**, *5*, 193-203) is maintained.

6. The rejection of claims 1-12 and 27-36 under 35 U.S.C. 103(a) as being unpatentable over Laska et al. (*Learn Mem.* **1998**, *5*, 193-203) in view of Tapp et al. (*Learn Mem.* **2003**, *10*, 64-73) is maintained.

7. The objection to the specification is maintained. In the published version (public PAIR) for example, [0057] is missing a colon between the words "testing and The" (line 1). Paragraph [0059] is missing a colon between the words "procedure and During" (line 1), etc...

Response to Arguments

8. Applicant's arguments filed 2/25/08 have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Rashotte et al. (Neuroscience & Biobehavioral Reviews **1984**, *8*, 231-237).

11. Applicant asserts that Rashotte et al. does not teach teach a particular association session comprising "presenting said animal with at least one non-preferred stimulus associated with said food, food stuff or veterinary biologic, wherein said non-preferred stimulus is not most frequently chosen by said animal or chosen at a slower rate or chosen secondly or later from said preference test" (emphasis added). Hence, Rashotte does not teach that lighted rectangle associated with coated food is a non-preferred stimulus.

12. The reference of Rashotte et al. teaches that the preferred stimulus (lighted rectangle) produced a fat coated food while the non-preferred stimulus (lighted circle) produced an uncoated food. The instant claims 1 and 2 does not state " presenting said animal with at least one non-preferred stimulus (lighted circle) associated with said food, food stuff or veterinary biologic , wherein said non-preferred stimulus is not most frequently chosen by said animal or chosen at a slower rate or chosen secondly or later from said preference test" as asserted by the applicant. This statement is found in claim 3 which is not rejected by this reference.

13. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Laska et al. (*Learn Mem.* **1998**, *5*, 193-203).

14. Applicant asserts that Laska et al. does not teach at least the claim limitation of "administering a discrimination learning procedure to an animal selected from said at least one animal wherein said discrimination learning procedure comprises: using a food, food stuff or veterinary biologic; and, utilizing at least one stimulus preference test wherein said stimulus preference test comprises: (a) presenting said animal with at least two distinct stimuli wherein each of said at least two distinct stimuli is associated with an identical reward; and, (b) permitting said animal to choose from said at least two distinct stimuli, wherein choice of any one stimulus results in said identical reward." Laska does not use a stimulus preference test.

15. Laska et al. does teach of (a) presenting said animal with at least two distinct stimuli wherein each of said at least two distinct stimuli is associated with an identical

reward; and, (b) permitting said animal to choose from said at least two distinct stimuli, wherein choice of any one stimulus results in said identical reward. Laska et al. teaches the method for testing color as a discriminative stimulus where round cookies were stained red or yellow using odorless and tasteless commercial food dyes. The cookies (food) are identical and therefore the two distinct stimuli (red or yellow) are associated with an identical reward. Laska et al. repeats the same test for testing odor as the discriminative stimulus (p195, paragraph 1).

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

17. Claims 1-12 and 27-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laska et al. (*Learn Mem.* **1998**, *5*, 193-203) in view of Tapp et al. (*Learn Mem.* **2003**, *10*, 64-73).

18. Applicant asserts that Laska et al. does not teach at least the claim limitation of "administering a discrimination learning procedure to an animal selected from said at least one animal wherein said discrimination learning procedure comprises: using a food, food stuff or veterinary biologic; and, utilizing at least one stimulus preference test wherein said stimulus preference test comprises: (a) presenting said animal with at least two distinct stimuli wherein each of said at least two distinct stimuli is associated with an

identical reward; and, (b) permitting said animal to choose from said at least two distinct stimuli, wherein choice of any one stimulus results in said identical reward." Laska does not use a stimulus preference test.

19. Laska et al. does teach of (a) presenting said animal with at least two distinct stimuli wherein each of said at least two distinct stimuli is associated with an identical reward; and, (b) permitting said animal to choose from said at least two distinct stimuli, wherein choice of any one stimulus results in said identical reward. Laska et al. teaches the method for testing color as a discriminative stimulus where round cookies were stained red or yellow using odorless and tasteless commercial food dyes. The cookies (food) are identical and therefore the two distinct stimuli (red or yellow) are associated with an identical reward. Laska et al. repeats the same test for testing odor as the discriminative stimulus (p195, paragraph 1).

20. Applicant asserts that the reference of Tapp et al. is not appropriate prior art due to the priority date of July 1, 2003.

21. The reference of Tapp et al. is used as a 102 (a) reference for the 103 (a) rejection. The publication date of the Tapp et al. reference is Jan/Feb 2003 and is therefore an appropriate 102 (a) prior art reference.

New Grounds of Rejection/Objection

22. The disclosure is objected to because of the following informalities: The priority date stated in the specification is incorrect and reads July 1, 2004. Appropriate correction is required.

Claim Rejections - 35 USC § 112

23. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

24. Claims 4-12 and 28-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The instant claims are confusing as recited due to excessive use of the term "said", for instance "repeating steps of said presenting said animal with said preferred stimulus and a plurality of said non-"preferred stimuli though said recording said at least one stimulus chosen by said animal to obtain discrimination of said animal".

Conclusion

No claims are allowed at this time.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELISSA PERREIRA whose telephone number is (571)272-1354. The examiner can normally be reached on 9am-5pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Hartley can be reached on 571-272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael G. Hartley/
Supervisory Patent Examiner, Art Unit 1618

/Melissa Perreira/
Examiner, Art Unit 1618